THE SECRETARY OF COMMERCE
Washington, D.C. 20230

Memorandum for: Members, Cabinet Council on Commerce and Trade

From: Malcolm Baldrige MB
Chairman Pro Tempore

Subject: Electronic Mail Options.

Decision Memorandum

Introduction

The U.S. Postal Service (USPS) announced in 1978 that it would inaugurate a new Electronic Computer-Originated Mail ("ECOM") service. The USPS plans to begin offering this service on January 4, 1982; this could lead to other USPS "electronic mail" services. The Cabinet Council considered this matter on November 13, but reached no final decisions.

ECOM is computer-generated first-class mail entered into the mails via a telecommunications carrier in minimum quantities of 200 messages, at any of 25 "serving post offices" (SPOs), and there processed, printed in hard copy, and delivered within two business days, at a price for postage of 26 cents for the first page and 5 cents for the second page. The customer would pay the telecommunications carrier separately.

Positions on the Issues

The Departments of Commerce and Justice, and the Council of Economic Advisers, have taken positions on the USPS' possible involvement in the electronic mail business. CEA has stated that electronic mail has none of the "natural monopoly" or similar economic characteristics that have justified government enterprises in the past, and that USPS participation in this line of commerce implicates significant competitive risks as the USPS is not likely to allocate relevant costs properly. CEA agrees with the Justice and Commerce positions that are discussed below.

The Commerce Department has stated that allowing the USPS to diversify into the electronic mail field would conflict with traditional U.S. policy of relying upon the private sector to satisfy the public's telecommunications needs. Commerce contends that existing and future demand for electronic mail services can and is being met by many private sector communications and computer-data processing companies. Commerce also maintains that restrictions on USPS offerings along the lines of those indicated in the July, 1979 Carter Administration "policy statement" are not sustainable, given the commercial and technological dynamics of the telecommunications industry. The Commerce Department also agrees with the views of CEA and Justice.

The Justice Department has stated that the Postal Service should not enter the electronic mail field both because of the potential for anticompetitive practices, such as below-cost pricing, and because of its statutory monopoly over the delivery of letter mail under the "private express" laws. The Justice Department maintains that the "separated entity" condition on USPS entry specified in the Carter policy statement is an inadequate safeguard against the USPS gaining unfair competitive advantages due to its special status as a governmental establishment with a substantial monopoly base. Justice agrees with and supports the CEA and Commerce positions.

The Postal Service maintains that there is a demonstrated demand for ECOM service; that ECOM interconnections into the postal system will be available to all telecommunications carriers and that -- far from being anticompetitive -- this availability will stimulate competition; that "improper" cost allocations are virtually impossible given the uniquely close scrutiny of postal costing by all interested parties in proceedings before the independent Postal Rate Commission; that cross-subsidies of ECOM costs by other postal services are unlawful and contrary to the Postal Service's interests, as well as those of the public; that it is generally required by law to make use of "new equipment or devices which may reduce the cost or improve the quality of postal services," and that ECOM service would do just that and be in line with traditional USPS practice of using emerging technology to move the mail more efficiently (e.g., stagecoach, rail, motor carriers, air); and that virtually all foreseeable ECOM volume will consist of message traffic now using the mails.

Decisions Required

The Postal Service's ECOM proposal would be a relatively small undertaking; at least $38 million has been spent to develop this prototype service, and a number of customers and carriers have made plans to participate. ECOM is under review by the independent Postal Rate Commission to some extent. The USPS currently contests the Rate Commission's authority over this service. Six companies have requested interconnection rights of the Postal Service: Graphnet, ITT World Communications, Western Union International (Xerox subsidiary), TRT Telecommunications (United Brands), Dialcom, and Netword. Some of these firms may initiate court challenges to ECOM; Congress may also intervene. The USPS has already made most of the capital commitment needed to offer ECOM service beginning on January 4, 1982. The Rate Commission is not likely to resolve its proceeding before the date the USPS plans to begin service.

The Cabinet Council should consider the following options:

First Option: Decide that the USPS should stay out of all but the physical delivery of hard copy messages (whether or not electronically originated); that is, the USPS should not undertake to market services, engage in message processing, etc.

PROS:

-- Possibly resolves a long-standing controversy concerning Postal Service entry into electronic mail.

-- Consistent with other Administration "re-privatization" initiatives.

-- Will encourage private sector initiatives, innovation, and efficiency.

-- Economically justified decision as the USPS has yet to make a sound case for a permanent ECOM offering, in the judgment of Commerce, Justice and CEA.

CONS:

-- USPS and unions will argue that denial of electronic alternatives will mean the beginning of the end for a major institution.

-- Policy of exclusion will result in some Congressional opposition.

-- Inconsistent with the 1970 Postal Reorganization Act mandate that the Postal Service be managed independently of the Administration (comparable to TVA).

-- While Justice believes it has a strong case, it cannot guarantee efforts to block USPS in court will succeed.

Second Option: Permit current USPS course (subject to administrative suspension of the private express laws in the delivery areas where electronic mail service is being offered) while seeking legislation explicitly to bar USPS from offering terminal-to-terminal electronic mail communications services, and to end statutorily the operation of the express laws in any delivery area where the electronic mail service is being offered.

PROS:

-- Allays fears of telecommunications industry that Postal Service might attempt to diversify into "non-mail" electronic communications.

-- Might resolve a long-standing controversy.

-- Consistent with independent role of USPS while preventing USPS incursion into non-postal arena, according to USPS.

-- Prevents Post Office expansion into competitive areas where the Post Office has a monopoly.

CONS:

-- No guarantee any such legislation would pass.

-- Continued investment in "generation II" services may result in pressures for USPS expansion into offering of "generation III" services (i.e., terminal-to-terminal) as natural business evolution to safeguard sunk costs, thus any statutory bar, if enacted, may only postpone that development.

-- Any tampering with private express statutes will draw strong political opposition.

Third Option: Permit current USPS course, but support legislation that would explicitly bar USPS from offering terminal-to-terminal electronic mail communications services.

PROS:

-- Allays fears of telecommunications industry that Postal Service might attempt to diversify into "non-mail" electronic communications.

-- Might resolve a long-standing controversy.

-- Consistent with independent role of USPS while preventing USPS incursion into non-postal arena, according to USPS.

CONS:

-- No guarantee any such legislation would pass.

-- Continued investment in "generation II" services may result in pressures for USPS expansion into offering of "generation III" services (i.e., terminal-to-terminal) as natural business evolution to safeguard sunk costs, thus any statutory bar, if enacted, may only postpone that development.